

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

Reidinger

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**FILE:** B-217518**DATE:** July 23, 1985**MATTER OF:** William T. Cook - Real Estate Expense  
Reimbursement**DIGEST:**

An employee claims reimbursement for the expenses of selling his family residence in Westport, Connecticut, incident to his transfer from Westfield, Massachusetts, to Burlington, Massachusetts. He maintained living accommodations in the immediate vicinity of his Westfield duty station because the distance from Westfield to Westport is 77 miles, but he asserts he commuted to and from the Westport residence two times and occasionally three times weekly. The claim is denied. He has not met his burden of showing that he commuted "regularly" to and from Westport as required by paragraphs 2-4i and 2-6.1 of the Federal Travel Regulations for sales expense reimbursement purposes.

This decision is in response to a request from Don E. Hansen, Manager, Fiscal Standards Branch, Federal Aviation Administration, United States Department of Transportation, concerning the entitlement of one of its employees to be reimbursed for real estate sales expenses incident to a permanent change of station in September 1983. We conclude that the employee may not be reimbursed, for the following reasons.

**FACTS**

Mr. William T. Cook, an employee of the Federal Aviation Administration, was transferred from Westfield, Massachusetts, to Burlington, Massachusetts, by Travel Order dated September 6, 1983. According to those orders, his residence was in Westport, Connecticut, a distance of 77 miles from his old duty station in Westfield, Massachusetts. Mr. Cook owned a house in Westport and his wife and daughter resided there. Mr. Cook also maintained an apartment in Westfield.

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In May 1984, Mr. Cook sold his residence in Westport, Connecticut, and in June 1984, he purchased a new residence in Stamford, Connecticut, which is approximately 11 miles farther from both his old and new duty stations than was the Westport residence. He has claimed the expenses of selling the Westport, Connecticut, residence incident to his permanent change of station to Burlington, Massachusetts. No claim has been made for the purchase of the house in Stamford.

His claim for selling his former residence was disallowed by the FAA based on paras. 2-1.4i and 2-6.1 of the Federal Travel Regulations. The certifying officer concluded, based on the location of the old residence in relation to the new residence, that the move was for personal reasons and not incident to the transfer.

Mr. Cook has appealed that determination and supplied a statement claiming that the Westport, Connecticut, house was his residence. In an effort to support the claim that it was the residence from which he commuted to and from his duty station in Westfield, Massachusetts, he stated that "I drove to Westport to be with my family every night that I could."

#### DECISION

The authority to reimburse an employee for real estate expenses incident to a transfer of official duty station is contained in 5 U.S.C. § 5724a (1982) and Chapter 2 of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR). Under FTR para. 2-6.1, an employee may be reimbursed for expenses incurred in the sale of one residence at his old official station, incident to a transfer, so long as it was the employee's residence at the time he or she was first informed of the transfer. The term "official station" is defined in para. 2-1.4i to mean:

"i. Official station or post of duty.  
The building or other place where the officer or employee regularly reports for duty.  
\* \* \* With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty

also means the residence or other quarters from which the employee regularly commutes to and from work. \* \* \*

Paragraphs 2-1.4i and 2-6.1 of the FTR, when read in combination, generally establish the requirement that in order for an employee to be reimbursed the expenses of the sale of the residence at his old station, he must actually reside there at the time of transfer notice and that it is the place from which he commutes to and from work.

The salient term used in the FTR to describe the relationship between an employee's post of duty or worksite and the residence or dwelling used for commuting purposes, is that the commuting must be done "regularly" between that residence and the employee's post of duty in order for that residence to qualify for expense reimbursement purposes.

In the present case, because of the distance Mr. Cook had to travel (77 miles oneway) in order to be with his family, and the lack of specificity in his statement that he drove to his Westport residence "every night that I could," we informally obtained the following information from him.

The residence for which the cost of selling is claimed (Westport, Connecticut), was purchased sometime before 1978. At that time, Mr. Cook's permanent duty station was in the Washington, D.C., area. We understand that the decision to locate and purchase a residence in the Westport area was due to its proximity to Mrs. Cook's employment location. According to Mr. Cook, while the Westport residence was his legal residence, he maintained living accommodations in the Washington area and commuted to Westport on weekends and holidays.

In 1978, Mr. Cook was transferred to Norwood, Massachusetts. While the Westport residence continued as his legal residence, he secured living accommodations near Norwood and commuted to Westport on weekends and holidays. In 1981, he was transferred to Westfield, Massachusetts, the duty station which he considers to be his "old duty station" for the purposes of this claim. While he continued his pattern of securing living accommodations in the immediate area of his duty station, in addition to the Westport house, since that duty station was less than 100 miles from his

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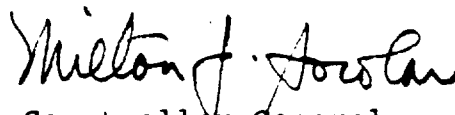
legal residence he increased his commuting time from weekends and holidays to twice a week and as he put it "occasionally three times a week."

Our Office has consistently ruled that where an employee maintains living accommodations in the near proximity of his duty station and commutes to a residence where his family lives on weekends and holidays, such a residence does not satisfy the requirement of FTR para. 2-1.4i as the "residence \* \* \* from which the employee regularly commutes," so as to permit reimbursement for the expenses of selling that residence incident to transfer. Bernard L. Singer, B-202758, February 22, 1982, and decisions cited.

We do not view Mr. Cook's commuting on weekends and occasional weeknights to and from the Westport house as satisfying the requirement of "regularly" commuting as that term is used in FTR, para. 2-1.4i.

Instead, his pattern of securing living accommodations at several duty stations, including Westfield, Massachusetts, and traveling to his family's home in Westport, Connecticut, on weekends and holidays, shows the contrary and places him squarely under our decisions disallowing similar claims. Even though Westfield was close enough to Westport to permit Mr. Cook to travel there occasionally during the week, that fact does not change our conclusion. He has not met his burden of showing that he regularly commuted to work from the Westport residence and he, therefore, may not be reimbursed for the expenses of selling that residence.

The certifying officer has also questioned the propriety of payments already made to Mr. Cook for shipment and storage of household goods, temporary quarters subsistence expenses, permanent change-of-station travel, and miscellaneous expenses. Since Mr. Cook was transferred in the interest of the Government and incurred expenses in those categories in connection with the transfer, we see no reason to object to those payments.

*for*   
Comptroller General  
of the United States